

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ZOOLOGICAL SOCIETY OF BUFFALO, INC.,

Plaintiff,

v.

DECISION AND ORDER  
10-CV-35-A

CARVEDROCK, LLC and  
BURLINGTON INSURANCE COMPANY,

Defendants.

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This case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. §636(b) for rulings on all pretrial matters and to report upon dispositive issues. On March 12, 2013, non-party Travelers Indemnity Company (“Travelers”) filed a motion to quash a subpoena served upon it by defendant Burlington Insurance Company (“Burlington”), and for associated costs and attorney fees. (Dkt. No. 68). Defendant Burlington cross-moved to compel compliance with the subpoena, and for costs and attorney fees. (Dkt. No. 68).

On October 15, 2013, Magistrate Judge Schroeder issued a Decision and Order denying the motion to compel compliance with the Burlington subpoena and granting the motion to quash and awarding attorney fees to non-party Travelers. (Dkt. No. 76). Defendant Burlington appealed from that Decision and Order to the extent of the award of attorney fees to Travelers, on October 29, 2013. (Dkt. No. 70). Travelers filed a response on November 8, 2013, and

Burlington filed a reply on November 20, 2013. (Dkt. Nos. 81 and 82 ).

Pursuant to 28 U.S.C. §636(b)(1)(A), the district court “may reconsider any pretrial matter under this subparagraph (A), where it has been shown that the magistrate’s order is clearly erroneous or contrary to law.” *Id.* The Court has carefully reviewed Magistrate Judge Schroeder’s Decision and Order (Dkt. No. 76) and the submissions of the parties. Upon such review, the Court finds that Magistrate Judge Schroeder’s Decision and Order granting the protective order is neither clearly erroneous nor contrary to law. Accordingly, the Court affirms the Decision and Order in its entirety.

The case is referred back to Magistrate Judge Schroeder for further proceedings.

SO ORDERED.

*s/ Richard J. Arcara*

HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: November 21, 2013